



CITY OF HOUSTON

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July 15, 2021

Via E-Filing

The Hon. Vanessa D. Gilmore
United States District Judge
515 Rusk Street, Room 5300
Houston, Texas 77002

Re: No. 4:19-cv-02236; *Joe Richard "Trey" Pool, III, et al. v. City of Houston, et al.*; in the United States District Court for the Southern District of Texas, Houston Division

Dear Judge Gilmore:

On July 6, 2021, Plaintiffs filed a purported "Notice of Status" regarding *the City's* Amended Motion to Dismiss ("Amended Motion"). There is no provision in the Court's local rules or the Federal Rules of Civil Procedure for such a presumptuous filing and Plaintiffs have failed to cite one.

The City filed its Amended Motion to Dismiss, attachments, Memorandum in Support, and proposed order concurrently with its Motion to Exceed the Page Limit on May 25, 2021. All are reflected on the Court's docket as Docs. 65-67. Its Memorandum in Support of its Amended Motion, however, was as misfiled as a second "Amended Motion" and so was refiled properly as a Memorandum in Support on May 26, 2021. It is reflected in the Court's docket as Doc. 68.

This Court granted the City's Motion to Exceed the Page Limit on June 15, 2021. *Consequently, the City's Amended Motion, attachments, proposed order, and*

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*supporting memorandum were deemed filed as of, at the latest, June 15, 2021. See, e.g., Sharps Compliance, Inc. v. United Parcel Serv., Inc., CIV.A.H-10-0300, 2010 WL 838859, at *1 (S.D. Tex. Mar. 5, 2010). Nothing in this Court's local rules or the Federal Rules of Civil Procedure requires that the same documents be refiled after that date and Plaintiffs have not cited to any rule or order that would require refiling identical documents.*

The Southern District of Texas Local Rules [LR7.3] provide that “opposed motions will be submitted to the judge 21 days from filing without notice from the clerk and without appearance by counsel.” LR7.4 further provides that “failure to respond to a motion will be taken as a representation of no opposition” and that such responses “must be filed by the submission day.” *The submission date for Houston's motion was, therefore, July 6, 2021, the very day Plaintiffs filed their improper “notice.” Under LR7.4, their “failure to respond to a motion will be taken as a representation of no opposition.”*

The City should not be delayed in having its dispositive motion ruled upon because Plaintiffs refuse to abide by well-known and widely-available applicable law, rules of procedure, or local rules.

The submission date for Houston's Amended Motion to Dismiss having long passed, the City asks that this Court rule as expeditiously as possible on its pending motion, that was served on Plaintiffs nearly two months ago.

Should the Court have any questions, please do not hesitate to contact me. Thank you for your consideration in this matter.

Respectfully submitted,

/s/ Collyn A. Peddie
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